

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte KENICHI HIGASHI and YOUSUKE TSUKUDA

Application No. 09/842248

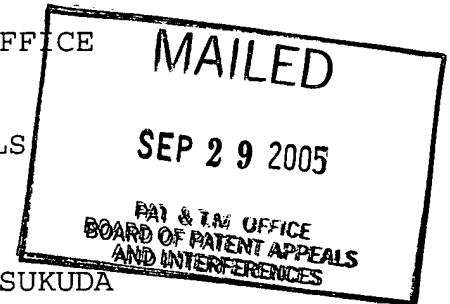
ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 2, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On December 23, 2004, appellants filed Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the heading "Related proceedings appendix" is missing from the Appeal Brief according to § 41.37(c)(1)(x) which states:

An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii)....

Appropriate correction is required.



Upon review of the Examiner's Answer mailed on April 29, 2005, the examiner failed to comply to the new rules effective September 13, 2004.

Accordingly, it is

**ORDERED** that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of December 23, 2004 defective;
- 2) to notify applicants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief, vacate the Examiner's Answer mailed April 29, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- 4) have a complete copy of the Substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 5) for such further action as may be appropriate

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

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Application No. 09/842,248

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